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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/054,709	01/18/2002	Joseph G. Buehl	43314/236952	5418
826	7590	07/15/2005	EXAMINER	
ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000			SALTARELLI, DOMINIC D	
			ART UNIT	PAPER NUMBER
			2611	

DATE MAILED: 07/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/054,709

Applicant(s)

BUEHL ET AL.

Examiner

Dominic D. Saltarelli

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 19-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 19-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 27, 2005 has been entered.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 19-21, 24-32, 34, and 36-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bigham et al. (5,544,161, of record) in view of Safadi (5,572,517, of record).

Regarding claims 19 and 31, Bigham discloses a method and system for selecting a service in a cable system (col. 25, lines 36-54) comprising:

receiving an input from a user at an application executing in a set top box connected to a cable network (fig. 5), the input pertaining to a selected service offering (col. 35, lines 55-65);

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receiving data corresponding to the selected service offering at a session manager in the set top box and generating a first session setup request from the session manager (the user's selection is transformed into a digital request at the DET prior to being broadcast, col. 35, lines 55-65) wherein the first session setup request includes private data (specific to the requester) comprising service data reflective of the selected service offering (the service being requested) and routing data identifying a session gateway (the level 1 gateway to which requests are routed, col. 15, lines 36-52) and a service gateway (the level 2 gateway which is specified in the request based on the service selected, col. 36, lines 38-52);

transmitting the first session setup requested form the set top box to a session resource manager [SRM] (fig. 1, LVAN 112, through which user terminals connect to the level 1 gateway 108);

routing the first session setup request from the SRM to a Session Gateway (SESS-G) based on the routing data (col. 14 line 59 – col. 15 line 6);

routing a second session setup request message from the Session Gateway to a Service Gateway [SVC-G] based on the routing data (col. 36, lines 38-52);

routing the second session setup request message from the SVC-G to one of a plurality of services (the 'selected VIP', col. 36, lines 38-43).

Bigham fails to disclose examining by the service data by the service to determine one of a plurality of servers for providing the service selection.

In an analogous art, Safadi teaches associating several servers with a service provider, allowing the service provider to distribute several different types of content to requesting customers (col. 7, lines 1-15).

It would have been obvious at the time to a person of ordinary skill in the art to modify the method and system disclosed by Bigham to include examining by the service data by the service to determine one of a plurality of servers for providing the service selection, as taught by Safadi, for the benefit of allowing the service provider to distribute several different types of content to requesting customers, such as live broadcasts, archived broadcasts, and interactive services.

Regarding claims 20 and 37, Bigham and Safadi disclose the method and system of claims 19 and 31, wherein determining the one of a plurality of servers comprises communicating with a business management system to determine the one of a plurality of servers (an inherent feature of the combination of Bigham and Safadi, as the plural servers are sources of different types of content, and the selection system which selects the server does so based on the service requested).

Regarding claim 21, Bigham and Safadi disclose the method of claim 19, wherein the server indicates a resource required to the SESS-G for providing the service selection to the user (the level 1 gateway needs to be informed by the

server providing the service the amount of bandwidth needed in order to allocate said bandwidth, col. 36, lines 53-65).

Regarding claim 24, Bigham and Safadi disclose the method of claim 21, wherein the selected service is a per-per-movie video service (Bigham teaches providing point to point video services, col. 7, lines 50-65 for which users pay, col. 37, lines 10-25).

Regarding claims 25 and 38, Bigham and Safadi disclose the method and system of claims 19 and 31, wherein the server communicates to the SRM the resource requested from the cable network to fulfill the service request (the requested video is delivered to the customer from the server via the LVAN 112, see fig. 5 of Bigham).

Regarding claims 26 and 32, Bigham and Safadi disclose the method and system of claims 19 and 31, wherein the application executing in the set top box is one of a plurality of applications executing in the set top box configured to provide a service selection to the session manager in the set top box (Bigham teaches the DET downloads application software from each VIP that allows the DET to access VIP services, col. 24, lines 31-57, wherein the session manager is the operating system of the DET which controls all I/O functions).

Regarding claim 27, Bigham and Safadi disclose the method of claim 19, wherein the SESS-G instantiates a session object in response to receiving the first session setup request from the session manager in the set top box (Bigham, col. 36, lines 15-37 and col. 37, lines 11-25).

Regarding claim 28, Bigham and Safadi disclose the method of claim 21, wherein the SESS-G further indicates to the SRM a resource requested (the level 1 gateway communicates the bandwidth requirement to the APD 174 of the LVAN 112, see fig. 4 and col. 36 line 53 – col. 7 line 10).

Regarding claim 29, Bigham and Safadi disclose the method of claim 19, wherein generating a first session setup request from the session manager to a session gateway involves the SRM routing the first session setup request to the session gateway based on a session gateway address identifying the session gateway (the request to the level 1 gateway first passes through the LVAN and is then routed over the ATM network, col. 14 line 59 – col. 15 line 6, thus the session setup request includes the session gateway address in order for the request to be properly routed over the ATM network to reach the gateway).

Regarding claim 30, Bigham and Safadi disclose the method of claim 19, wherein the routing data comprises routing data comprising first routing data associated with the SESS-G (as described above regarding claim 29) and

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second routing data associated with the SVC-G (for selecting the proper level 2 gateway for fulfilling a request, Bigham, col. 36, lines 38-53).

Regarding claim 34, Bigham and Safadi disclose the system of claim 31, wherein the SESS-G examines the routing data to determine one of a plurality of SCV-G to receive the second session setup message (Bigham, col. 36, lines 38-53).

Regarding claim 36, Bigham and Safadi disclose the system of claim 31, wherein the SVC-G examines the routing data to determine one of a plurality of services to receive the second session setup message (Safadi teaches the level 2 gateway establishes the connection between the users and the various information providers, col. 7, lines 1-15).

4. Claims 22, 23, 33, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bigham and Safadi as applied to claims 19 and 31 above, and further in view of applicant's own disclosure.

Regarding claims 22, 23, 33, and 35, Bigham and Safadi disclose the method and system of claims 19 and 31, but fail to disclose the first session setup request is based on a DSM-CC message and the second session setup request is an ISA message.



However, applicant identifies both DSM-CC and ISA message formats as well known and internationally recognized messaging standards (page 16 of applicant's disclosure).

Therefore, it would have been obvious at the time to a person of ordinary skill in the art to modify the method and system disclosed by Bigham and Safadi for the first session setup request to be based on a DSM-CC message and the second session setup request to be an ISA message, for the typical benefit of utilizing well known and internationally recognized messaging standards.

### ***Conclusion***

5. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

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## Certificate of Mailing

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Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dominic D. Saltarelli whose telephone number is (571) 272-7302. The examiner can normally be reached on Monday - Friday 7:00am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on (571) 272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dominic Saltarelli  
Patent Examiner  
Art Unit 2611

DS

  
HAITRAN  
PRIMARY EXAMINER